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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,512	09/30/2003	Brian Keith Wells	10121/03501	4114
30636 7590 06/30/2008 FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038				
EXAMINER KASZTEJNA, MATTHEW JOHN				
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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6
7

8 *Ex parte* BRIAN KEITH WELLS, LANCE ALAN WOLF,
9 GREGORY R. FURNISH, VASILY P. ABRAMOV,
10 WILLIAM C. MERS KELLY, and RUSSELL F. DURGIN
11

12
13 Appeal 2008-0528
14 Application 10/674,512
15 Technology Center 3700
16

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18 Decided: June 30, 2008
19
20

21 *Before:* MURRIEL E. CRAWFORD, LINDA E. HORNER and
22 MICHAEL W. O'NEIL, *Administrative Patent Judges.*
23
24 CRAWFORD, *Administrative Patent Judge.*
25

26
27 DECISION ON APPEAL
28

29 STATEMENT OF CASE

30 Appellants appeal under 35 U.S.C. § 134 (2002) from a final
31 rejection of claims 1 to 5, 10, 11, 15, 17 and 18. We have jurisdiction under
32 35 U.S.C. § 6(b) (2002). Claims 6 to 9, 12 to 14, 16, and 19 to 27 have been

1 objected to as being dependent upon a rejected base claim. Claims 28 to 36
2 have been allowed.

3 Appellants invented a hemostatic clipping tool with a ball connector
4 that is detachable from the shaft to provide a user feedback indicating
5 separation of the clip assembly from the shaft (Specification 1, 3).

6 Claim 1 under appeal reads as follows:

7 1. Apparatus for deployment of a hemostatic clip
8 comprising:

9
10 a handle assembly;

11
12 a shaft connected to a distal portion of the handle
13 assembly;

14
15 a clip assembly releasably coupled to a distal portion of
16 the shaft, the clip assembly including clip arms and a capsule
17 cooperating with the clip arms to provide a first user feedback
18 indicating a decision configuration of the clip assembly; and

19
20 a control wire including a ball connector, the control wire
21 extending from the handle assembly and coupled to the clip
22 assembly by the ball connector to maintain the clip assembly
23 coupled to the shaft, wherein the ball connector is detachable
24 from the clip assembly to provide a second user feedback
25 indicating separation of the clip assembly from the shaft.

26
27 The Examiner rejected claims 1, 2, 4, 5 and 15 under 35 U.S.C.
28 § 102(a) as being anticipated by Adams.

29 The Examiner rejected claims 3, 10, 11, 17 and 18 under 35 U.S.C.
30 § 103(a) as being unpatentable over Adams in view of Kimura (2004).

31 The prior art relied upon by the Examiner in rejecting the claims on
32 appeal is:

1	Adams	US 2003/0069592 A1	Apr. 10, 2003
2	Kimura	6,814,742 B2	Nov. 09, 2004

3
4 Appellants contend that Adams fails to disclose a clip assembly
5 including a capsule, clip arms, and a ball connector which is detachable from
6 the clip assembly to provide a second user feedback indicating separation of
7 the clip assembly from the shaft as required by claim 1.

8

9 **ISSUES**

10 The issue is whether Appellants have shown that the Examiner erred
11 in finding that Adams discloses a ball connector which is detachable from
12 the clip assembly to provide a second user feedback indicating separation of
13 the clip assembly from the shaft.

14

15

FINDINGS OF FACT

16 Adams discloses a clip 1201 having clip arms and a capsule 1204
17 connected to a shaft 1206 via a breakaway connection that is weak enough
18 so that when the shaft 1206 is pulled back through the working channel of
19 the endoscope, the outer sleeve 1204 releases with the clip 1201 (Figures
20 12a and 12b). A ball connector 1202 is detachably connected to the clip
21 1201 and is released when the socket tabs 1203 engage cut-outs 1205. The
22 ball connector 1202 does not provide a feedback indicating that the clip
23 1201 has separated from the shaft 1206 because it is the breaking of the
24 connection between the breakaway connection and the shaft that disconnects
25 the clip from the shaft. (Adams ¶ 0084.)

26

ANALYSIS

We will not sustain the rejection of the Examiner under 35 U.S.C. § 102(a) of claim 1, and claims 2, 4, 5, and 15 dependent thereon, as being unpatentable over Adams because as we found above, Adams does not disclose a ball connector which is detachable from the clip assembly to provide a user feedback indicating separation of the clip assembly from the shaft. The ball connect can provide feedback that the control wire is no longer connected to the clip assembly but does not provide feedback that the clip assembly is not connected to the shaft, because it is the breakaway connection that connects the clip assembly to the shaft not the ball connector.

We will also not sustain the rejection of the Examiner under 35 U.S.C. § 103 of claims 3, 10, 11, 17 and 18, as being unpatentable over Adams in view of Kimura because each of these claims depends from claim 1 and Kimura does not cure the deficiency noted above for Adams.

The decision of the Examiner is reversed.

REVERSED

vsh

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